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California Department of Insurance

RSBCovid19PR@insurance.ca.gov

Re: Aspen American Insurance Company (NAIC #43460) – April 13, 2020 Bulletin 2020-3; Premium Refunds, Credits, and Reductions in Response to COVID-19 Pandemic

This is the response of Aspen American Insurance Company (NAIC #43460), a Texas domiciled insurer authorized in California ("AAIC"), on behalf of itself and the following affiliated surplus lines insurance companies: (i) Aspen Specialty Insurance Company ("ASIC"), a North Dakota domiciled insurance company, (ii) Aspen Insurance UK Limited, a UK domiciled insurance company, and (iii) Aspen Managing Agency Limited, a UK domiciled cover holder for Aspen's Lloyd's of London Syndicate # 4711 ("affiliated surplus lines companies" and together with AAIC, "Aspen"), to the above referenced April 13, 2020 bulletin addressing premium refunds, credits and reductions in response to the COVID-19 pandemic. As required by the bulletin, below is a description of AAIC's California lines of business, a review of the exposures impacted by COVID-19 and a summary of the actions AAIC will undertake with respect to its policyholders.

Aspen is a commercial specialty insurer, typically insures middle-market to large commercial risks, and does not issue private passenger auto or workers compensation insurance. Aspen does not issue stand-alone commercial auto insurance, although commercial auto liability coverage is available as part of certain commercial liability insurance. AAIC 2019 California direct premium was \$68.9 million. AAIC earned premium in March, April, and May 2020, was \$18.9 million.

AAIC conducted a review of policies issued to California insureds in the lines of insurance outlined in Bulletin 2020-3, and all other lines of coverage written to determine where the measures of the risk have become substantially overstated as a result of the pandemic. In many cases, due to the nature of the risks covered by AAIC's California policies, the impact of the pandemic is unknown or uncertain at this time. In such cases where the impact of the pandemic is unknown or uncertain, AAIC is actively monitoring its claims experience and communicating with brokers to ensure that it develops a clear understanding of the impact the COVID-19 and will take appropriate action including with respect to premium refunds, reductions, or credits when the impact becomes known. In the event the impact of COVID-19 is not clear until the renewal of the policy, appropriate action with respect to premium will be taken at renewal.



I. Review of Lines of Insurance

a. Professional Liability

AAIC writes several classes of professional liability insurance in California, each of which was examined to determine if the measures of the risk have become substantially overstated as a result of the pandemic. In general, AAIC professional liability policies are written on a claims made basis. As such, the policy exposure in AAIC professional liability policies stems more from prior acts than from work currently being performed or future work and may not decrease due to COVID-19. The result of the analysis of each class is as follows:

Physicians and Dentists

AAIC's review noted physician and dentist work hours were significantly reduced during March, April and May. While it is arguable that reduced work hours may actually result in increased liability risk due to the interruption of professional services considered "non-essential", such as cancer screenings and other preventive medical and dental services, we concluded that it is appropriate to query all our insured California physicians and dentists for possible pro rata reclassification from full-time to part-time, which will temporarily reduce premiums for those working less than 20 hours per week, inclusive of all office hours, telemedicine activities etc. We have already proactively offered reclassification to interested physicians and dentists, and estimate most of our insured dentists will pursue reclassification. Significantly fewer physicians will elect to pursue reclassification due to many remaining open as "essential health care workers". We intend to apply the premium credit during the relevant policy period(s) on a pro rata basis, expiring all credits as local stay at home orders are lifted allowing these professionals to resume full time practice. This credit is only one factor in premium calculation and other credit and debits will be applied to determine renewal premium in accordance with the applicable rating plan filed and approved by the California Department of Insurance.

Insurance Agents and Brokers

AAIC insurance agents and brokers professional liability policies include a rating basis factor for revenues for the twelve (12) month period immediately preceding the policy period. Therefore, the rating impact of any revenue reduction experienced by individual policyholders will be contemplated at policy renewal. Additionally, several other factors indicate that the general risk presented in agents and brokers professional liability policies may be increased as a result of the pandemic. These factors include: 1) insurance industry professionals are



considered essential and insurance activities have not been severely curtailed by COVID-19; 2) insurance industry historical data indicates that economic downturn leads to increased frequency of claims against professional service providers; and 3) remote working may actually increase the chance of error as an individual may not have the same resources available at home as compared to an office.

Architects and Engineers

AAIC architects and engineers professional liability policies include a rating basis factor for the weighted average of revenues from years prior to the inception of the policy period, and a percentage of projected revenue. Therefore, the rating impact of any revenue reduction experienced by individual policyholders will be contemplated at policy renewal. Additionally, several other factors indicate that the general risk presented in architects and engineers professional liability policies may be increased as a result of the pandemic. These factors include: 1) architects and engineers are largely capable of working remotely; 2) insurance industry historical data indicates that economic downturn leads to increased frequency of claims against professional service providers; 3) remote working may actually increase the chance of error as an individual may not have the same resources available at home as compared to an office; and 4) lack of oversight and supervision in remote work environments increases quality control risk.

Lawyers

AAIC lawyers professional liability policies includes a rating basis factor for the number of lawyers employed by the policyholder prior to the inception of the policy period. Therefore, the rating impact of any reduction in the number of lawyers employed by individual policyholders will be contemplated at policy renewal. Additionally, several other factors indicate that the general risk presented in lawyers professional liability policies may be increased as a result of the pandemic. These factors include: 1) lawyers are largely capable of working remotely; 2) insurance industry historical data indicates that economic downturn leads to increased frequency of claims against professional service providers; 3) remote working may actually increase the chance of error as an individual may not have the same resources available at home as compared to an office; and 4) lack of oversight and supervision in remote work environments increases quality control risk.

Accountants

AAIC accountants professional liability policies include a rating basis factor for the last full year



of revenue for the year preceding the inception of the policy period. Therefore, the rating impact of any reduction in revenue by individual policyholders will be contemplated at policy renewal. Additionally, several other factors indicate that the general risk presented in accountants professional liability policies may be increased as a result of the pandemic. These factors include: 1) accountants are considered essential and are largely capable of working remotely; 2) insurance industry historical data indicates that economic downturn leads to increased frequency of claims against professional service providers; 3) remote working may actually increase the chance of error as an individual may not have the same resources available at home as compared to an office; and 4) lack of oversight and supervision in remote work environments increases quality control risk.

Appraisers

AAIC appraisers professional liability policies includes a rating basis factor for the number of appraisers employed by the policyholder prior to the inception of the policy period. Therefore, the rating impact of any reduction in the number of appraisers employed by individual policyholders will be contemplated at policy renewal. Additionally, several other factors indicate that the general risk presented in appraisers professional liability policies may be increased as a result of the pandemic. These factors include: 1) appraisers are considered essential and are largely capable of working remotely; 2) insurance industry historical data indicates that economic downturn leads to increased frequency of claims against professional service providers; and 3) historically low interest rates have led to increased appraisal activity.

b. Management Liability

AAIC writes management liability insurance in California on a primary and excess basis. The AAIC primary management liability policy is written on a package basis and includes: director & officer and entity liability, employment practices liability, fiduciary liability, crime coverage, and kidnap and ransom coverage. The majority of coverages included in a management liability policy are written on a claims made basis, and therefore exposure stems more from prior acts than from work currently being performed, or future work. AAIC examined each coverage included on the primary management liability policy as well as the excess management liability policy to determine if the measures of the risk have become substantially overstated as a result of the pandemic. The result of the analysis is as follows:

Primary Director & Officer and Entity Liability

Risk exposures in this line of business generally increase as financial conditions deteriorate.



AAIC is concerned about increased exposure from corporate bankruptcy, creditor claims, debtor claims, regulatory claims, competitor claims and shareholder claims affecting this product as a result of the extreme economic impact of the COVID-19 pandemic. Additionally, it is unclear whether borrowing under the new federal borrowing facilities will create new liabilities for corporations and their management if loans that require repayment remain unpaid.

Primary Employment Practices Liability

AAIC is monitoring papers authored in the legal community that express concern over the threat to employers from employee lawsuits as a result of the COVID-19 pandemic. The current consensus is that liabilities and lawsuits will increase as a result of the COVID-19 pandemic. AAIC expects additional claims alleging retaliation, discrimination (especially age) and alleged violations of wage and hour laws as employees are laid off, furloughed, work from home, or are brought back to work. Federal and state laws have not been waived to accommodate the current working environment. Plaintiff's attorneys are actively advertising their services to help employees sue their employers as a result of actions taken during the COVID-19 pandemic, even when those actions were well intentioned. We are concerned about this dynamic and its potential to drive additional exposures and losses.

Primary Fiduciary Liability

AAIC expects the liabilities for fiduciaries of employer sponsored plans have increased as a result of the COVID-19 pandemic. The operation and administration of employee benefits and retirement plans for workers displaced from their ordinary working environment or for terminated employees, present potential increased liability against plan fiduciaries and administrators. Additionally, new federal laws allow withdrawals from 401(k) plans without penalty in certain circumstances during the COVID-19 pandemic. The administration of such withdrawals creates new concerns for plan sponsors and fiduciary liability coverage.

Primary Crime Coverage

Fidelity coverage (employee theft and related coverages) is sold most often on a loss discovered basis. AAIC does not foresee any decrease in exposures for this line of coverage. AAIC expects additional exposures, with possibly some later discovery (than normal) of employee theft when normal working conditions resume due to deteriorating economic conditions. AAIC believes, in line with prior economic recessions, that incidents of employee theft increase while economic conditions are difficult. Such losses may not be currently



discovered due to worksite closure from the COVID-19 pandemic, however, those losses will be reported in the future.

Primary Kidnap and Ransom Coverage

AAIC does not believe that threats against executives, whether those threats are domestic or foreign will be reduced in the current economic environment. Accordingly, AAIC does not believe the exposures have become overstated as a result of the COVID-19 pandemic.

Excess Management Liability Policy

This product follows the form of the underlying management liability policy to provide coverage excess of the primary policy's terms and conditions. The terms and conditions will be similar to the coverage described above, and we incorporate by reference those comments relative to this excess product. AAIC does not believe that there will be a reduction in exposures as a result of COVID-19 for excess management liability placements. For the reasons mentioned above, AAIC believes that exposures have increased as a result of the COVID-19 pandemic.

c. Excess Commercial Liability

AAIC Excess Commercial Liability policies in California include exposure in construction, products, services, real estate and leisure. The excess component of these exposures make it difficult for AAIC to assess the impact of COVID-19 at this time. We continue to review our excess liability exposure and are assessing the impact of alternative policy holder operating practices such as curb side pickup on risk exposure as well as the presence of minimum premium policy terms. In the event we determine that any of these commercial excess exposures have been impacted by COVID-19, we will work with the insured's broker to communicate with the policy holder regarding premium adjustments or credits.

d. Commercial Multi-Peril Insurance

AAIC has filed rate plans for two commercial multi-peril insurance programs summarized below:

Builder's Risk, Rental Dwellings, Renter's Insurance, Planned Units

AAIC provides coverage for Builder's Risk, Rental Dwellings, Renter's Insurance, and Planned Unit Development (PUD) policies. While some PUD policies are written on a Commercial Multi Policy, "CMP" basis, the coverages are limited to the structures owned by the PUD such as pools, fences and mailboxes and the associated liability exposures. With respect to this



program, AAIC exposures continue and in some cases have increased. For Rental Dwellings and Renter's Insurance we see an increase in liability exposure due to COVID-19 as more people are required to stay at home, and with respect to Builder's Risk, government shut downs have resulted in increased exposure related to inability of insureds to complete projects.

Self-Storage Facilities

Self-storage operations insured under this program have been identified as an essential business and are permitted to continue operating to the extent necessary to maintain continuity of operations. Rating and premium development is primarily based on property replacement cost, which is not being impacted by the COVID-19 pandemic, and rent revenue or payroll is not utilized in premium development. Self-storage operators can continue to rent vacant units, occupancy level is not a rating factor, and self-storage rents space and does not have nor does it characteristically rely on significant foot traffic. Based on these factors, we believe the coverages afforded under this program has not been impacted by COVID-19.

Dental Property

AAIC insures office property in connection with the dental professional liability program. Premiums for property exposures are developed based on rates established against reported Building and Personal Property values. These values are not anticipated to be modified during the COVID-19 pandemic. The exposure to loss may actually increase as properties (i.e., dental offices) are less occupied and experience greater periods of vacancy. No premium reductions are contemplated for this exposure.

e. Cyber

AAIC issues cybersecurity coverage to insureds that hold client and employee information even if insureds are temporarily closed, operating remotely or have reduced operations. COVID-19 has resulted in increased targeted phishing campaigns and ransomware demands continue to increase in value as insureds become more dependent on their IT Infrastructure due to remote working. Malicious actors understand the heightened network reliance and have been quick to take advantage. Consequently, we do not believe there is a justification for exposure adjustments based on the unique nature of cyber risk, and we anticipate further deterioration of conditions for the cyber market in terms of both claim frequency and severity.

f. Inland Marine



AAIC writes primarily six lines of business within Inland Marine: Builders Risk, Contractors Equipment, Fine Art, Floater Property, Construction Output Program and Motor Truck Cargo.

Builders Risk

Builders Risk provides first party coverage for the new construction or renovation of a building, written for either a contractor or a project owner. Coverage includes physical damage for the building under construction as well as extra expenses associated with a covered project delay. The exposure base for pricing a Builders Risk is the construction project value and level of catastrophic and/or weather related coverage. The impact of COVID-19 on our Builders Risk exposure include project delays due to job-sites being shut down or slower delays in project completion due to social distancing requirements. As a result, we see additional exposures associated with vacant job-sites posing a threat to loss or damage to building materials. In addition, “fast tracking” practices to facilitate bringing the project back on schedule following idled periods may increase overall project exposure levels through project completion compared to original evaluations.

Contractors Equipment

Contractors Equipment provides first party coverage for the physical loss or damage to construction equipment. The exposure base for pricing a Contractors Equipment policy is the total value of the equipment schedule. The impact of COVID-19 on our Contractors Equipment exposure is the potential increase in theft exposure due to vacant job-sites and unoccupied equipment storage yards.

Fine Art

Fine Art provides first party coverage for art collections, typically for museums, galleries, dealers and private collectors. The exposure base used for pricing a Fine Art policy is the total value of the art collection. The impact of COVID-19 on our fine art exposure is the increased risk of theft to unoccupied museums, dealers and gallery location.

Floater Property

Floater Property provides first party coverage for the physical loss or damage to specialized property such as mobile medical equipment, camera equipment and equipment that is typically more unique or mobile in nature. The exposure base for pricing a Floater policy is the total value of the equipment schedule. The impact of COVID-19 on our Floater exposure is the potential increase in theft exposure due to unoccupied buildings where the property is located.

Commercial Output Program (COP Product)



Commercial Output Program provides first party coverage for physical loss or damage to buildings, business personal property and business interruption and extra expense. The exposure base for pricing a COP policy are the total insured values of the Insured's building, personal property and business interruption. The impact of COVID-19 on our COP exposure is the increased exposure to fire, water damage and theft due to vacant locations.

Motor Truck Cargo

Motor Truck Cargo provides the legal liability for a trucker for the goods being hauled under their bill of lading. The exposure base for a Motor Truck Cargo policy are either the number of power units on the schedule of vehicles, or on the trucker's annual trucking receipts. There is minimal impact of COVID-19 on our Motor Truck Cargo exposure.

II. Treatment of Policies Incepting During Pandemic

AAIC continues to actively write new policies in California during the pandemic. For applicants impacted by COVID-19, AAIC is taking appropriate measures to ensure the premium reflects the changing risk. These measures include, but are not limited to acceptance of statements of reduced revenues and reclassification of full time employees as part time employees where appropriate.

III. Review of of Aspen Surplus Lines

Because surplus lines coverage is not subject to the same rating parameters as AAIC admitted products, a review of California surplus lines exposure must be done on a case-by-case basis taking into account the unique nature of each surplus lines exposure. Aspen intends to review each California surplus lines policy issued by affiliated surplus lines insurance companies at renewal in coordination with the applicable surplus lines producer to ensure that the impact of COVID-19 is fully understood and properly applied to the rating of the exposure.

IV. Continued Review

Aspen is committed to its California admitted and surplus lines policyholders, and will continue to monitor its California book of business to determine where the measures of the risk have become substantially overstated as a result of the pandemic. In the event it becomes clear that a measure of risk becomes substantially overstated as a result of the pandemic subsequent to the date of this letter, Aspen will notify the Department and take appropriate premium reduction action.

This letter, and all information attached, contains confidential information that is not otherwise



available to the public and that, if disclosed, could cause substantial injury to the competitive position of Aspen and its affiliates. Accordingly, pursuant to California insurance law 1215.8, and any other applicable California confidentiality laws or regulations, AAIC, on behalf of itself and its affiliates, respectfully requests that this entire submission be afforded confidential treatment and be excepted from disclosure.

Regards,

Aspen American Insurance Company

Aspen Specialty Insurance Company

Aspen Insurance UK Limited

Aspen Managing Agency Limited as coverholder for Lloyd's Syndicate #4711